

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

BRANDON MOYE, SR.,

3:14-cv-01849-PK

Plaintiff,

ORDER

v.

ESCO CORPORATION, KAISER NW
PERMANENTE EMPLOYMENT
DEPARTMENT, and DR. ROBERT
DAVIS,

Defendants.

BROWN, Judge.

Magistrate Judge Paul Papak issued Findings and Recommendation (#36) on June 30, 2015, in which he recommends the Court grant the Motion (#15) to Dismiss for Lack of Jurisdiction filed by Defendants Kaiser and Dr. Davis, deny Plaintiff's Motion (#33) to Federal Question Jurisdiction,¹ find Plaintiff has

¹ Although Judge Papak did not expressly deny Plaintiff's Motion (#33) to Federal Question Jurisdiction, the Court notes it is, in effect, Plaintiff's response to the Motion to Dismiss filed by Defendants Kaiser and Dr. Davis and the Court's Order to Show Cause. Accordingly, Judge Papak's recommendation to grant Defendant's Motion is, in effect, a recommendation to deny Plaintiff's Motion (#33).

failed to respond sufficiently to the Court's Order (#31) to Show Cause as to why those claims that relate to ESCO Corporation should not be dismissed, and dismiss this matter in its entirety with prejudice. Plaintiff filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). See also *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*).

In his Objections, Plaintiff reiterates the arguments contained in his Motion to Federal Question Jurisdiction and Response to Motion to Dismiss for Lack of Jurisdiction. This Court has carefully considered Plaintiff's Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Papak's Findings and

Recommendation (#36) and, accordingly, **GRANTS** the Motion (#15) to Dismiss for Lack of Jurisdiction filed by Defendants Kaiser and Dr. Davis; **DENIES** Plaintiff's Motion (#33) to Federal Question Jurisdiction; **FINDS** Plaintiff has failed to respond sufficiently to the Court's Order to Show Cause issued April 8, 2015; **FINDS** Plaintiff cannot cure the deficiencies set out in the Findings and Recommendation; and **DISMISSES** this matter in its entirety with prejudice.

IT IS SO ORDERED.

DATED this 3rd day of September, 2015.

A handwritten signature in cursive script, appearing to read "Anna J. Brown", is written over a horizontal line.

ANNA J. BROWN
United States District Judge